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PATENT & TRADEMARK OFFICE  
U.S. PTO



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Patent  
Attorney Docket: 271/094

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: 255/179  
First Named Inventor: McKenzie et al.  
Prior Application Information:  
Serial No. 09/642,570  
Examiner: U. Chattopadhyay  
Art Unit: 3738

Commissioner for Patents  
Box Patent Application  
Washington, D. C. 20231

02/15/02  
10/077312  
U.S. PRO

### FILING UNDER 37 CFR § 1.53(b)

This is a request for filing for a continuation application under 37 CFR §1.53(b) of pending prior application Serial No. 09/642,570, filed on August 17, 2000, by **McKENZIE et al.**, entitled:

### **PERFUSION SHUNT APPARATUS AND METHOD**

For CONTINUATION or DIVISION APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied, referenced above, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

#### **I. APPLICATION ELEMENTS ENCLOSED**

25 Page(s) of Written Description  
2 Page(s) of Claims  
1 Page(s) of Abstract  
12 Sheet(s) of Drawings       formal       informal  
2 Page(s) of  Declaration or  Declaration and Power of Attorney  
     Copy from prior application [37 CFR §1.63(d)]  
     Newly executed  
3 Other: Claim of Priority (2 pages); Notification (1 page)  
  
 Assignment papers (cover sheet and documents(s))  
 An Information Disclosure Statement, PTO 1449,  with copies of cited items.  
 Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i). Applicant must attach form PTO/SB/35

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#### CERTIFICATE OF MAILING (37 C.F.R. §1.10)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as 'Express Mail Post Office To Addressee' in an envelope addressed to the Commissioner for Patents, Washington, D.C. 20231.

EV051650889US  
Express Mail Label No.

February 15, 2002  
Date of Deposit

*Cynthia B. Pacheco*  
Cynthia B. Pacheco

**II. FEE CALCULATION**

Applicant claims small entity status under 37 CFR 1.27.

<b>BASIC FILING FEE:</b>						\$740.00
Total Claims	12	-	20	=	0	x \$18.00
Independent Claims	1	-	3	=	0	x \$84.00
Multiple Dependent Claims	\$280	(if applicable)				<input type="checkbox"/>
<b>TOTAL OF ABOVE CALCULATIONS</b>						\$740.00
Reduction by ½ for Filing by Small Entity.					<input type="checkbox"/>	\$0.00
Misc. Filing Fees (Recordation of Assignment)						\$0.00
<b>TOTAL FEES DUE HEREWITH</b>						\$740.00

**III. PRIORITY - 35 USC § 119**

Priority of application Serial No. \_\_\_\_\_ filed on \_\_\_\_\_ in Country is claimed under 35 USC § 119.

The certified copy has been filed in prior U.S. application Serial No. \_\_\_\_\_ on \_\_\_\_\_.

The certified copy will follow.

**IV. AMENDMENTS**

Cancel in this application original Claims \_\_\_\_\_ of the prior application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes if no new claims are added in a preliminary amendment.)

A Preliminary Amendment is enclosed. (Claims added by Amendment must be numbered consecutively beginning with the number next following the highest numbered original claim in the prior application.)

**V. RELATE BACK - 35 USC § 120**

- Relate back information included in preliminary amendment or specification.
- Please amend the specification as follows:  
[Enter continuing data here]
- With respect to the prior co-pending U.S. application from which this application claims benefit under 35 USC § 120, the inventor(s) in this application is (are) [37 CFR 1.53(b)(1)]:
  - the same.
  - less than those named in the prior application and it is requested that the following inventor(s) identified above for the prior application be deleted [see 37 CFR §§1.33(b) AND 1.63(d)(2)]:  
[Name(s) of inventor(s) to be deleted]

**VI. METHOD OF PAYMENT OF FEES**

- Attached is a check in the amount of \$740.00.
- Charge Lyon & Lyon's Deposit Account No. **12-2475** in the amount of \_\_\_\_\_.
- Not attached. No filing fee is submitted. [This and the surcharge required by 37 CFR § 1.16(e) can be paid subsequently.]

**VII. AUTHORIZATION TO CHARGE ADDITIONAL FEES**

The Commissioner is hereby authorized to credit Lyon & Lyon's Deposit Account No. **12-2475** for any over payment of fees and to charge the following additional fees by this paper and during the entire pendency of this application to Deposit Account No. **12-2475**:

- 37 CFR § 1.16 (Filing fees and excess claims fees)
- 37 CFR § 1.17 (Application processing fees)
- 37 CFR § 1.21 (Assignment recordation fees)

**VIII. POWER OF ATTORNEY & CORRESPONDENCE ADDRESS**

- The power appears in the original papers in the prior application.
- The power does not appear in the original papers, but was filed on \_\_\_\_\_ in prior application Serial No. \_\_\_\_\_.
- A new power has been executed and is attached.

Please send all correspondence to Customer Number 22249:



**22249**

PATENT TRADEMARK OFFICE

LYON & LYON LLP  
Suite 4700  
633 W. Fifth Street  
Los Angeles, CA 90071  
(213) 489-1600

Please direct all inquiries to John Kappos, at the above Customer Number.

**IX. MAINTENANCE OF CO-PENDENCY OF PRIOR APPLICATION**

- A petition, fee and response has been filed to extend the term in the pending **prior** application until \_\_\_\_\_. A copy of the petition for extension of time in the **prior** application is attached.
- A conditional petition for extension of time is being filed in the pending **prior** application. A copy of the conditional petition for extension of time in the **prior** application is attached.

**X. ABANDONMENT OF PRIOR APPLICATION**

- Please abandon the prior application at a time while the prior application is pending or when the petition for extension of time or to revive in that application is granted and when this application is granted a filing date so as to make this application co-pending with said prior application. At the same time, please add the words "now abandoned" to the amendment of the specification set forth in Item V above.

Respectfully submitted,

LYON & LYON LLP

Dated: February 15, 2002

By: John Kappos

John Kappos  
Reg. No. 37,861  
Attorneys for Applicants

JCK/cp  
Enclosures

EMBOL-X, INC.

Name of Assignee

645 Clyde Avenue, Mountain View, CA 94043-2213

Address of Assignee

Chief Operating Officer

Title of person authorized to sign on behalf of assignee

Assignment recorded in PTO on June 1, 1998, Reel 9223, Frame 0322-0324.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

**McKENZIE et al.**

**Serial No.: Not yet assigned**

Filed: Submitted herewith

For: **PERFUSION SHUNT APPARATUS  
AND METHOD**

Group Art Unit: Not yet assigned

**NOTIFICATION**

BOX PATENT APPLICATION

Commissioner for Patents  
Washington, D.C. 20231

Sir:

Please be advised that claims 1–12 herein were copied substantially from Macoviak et al., U.S. Patent No. 6,254,563.

Respectfully submitted,

LYON & LYON LLP

Dated: February 15, 2002

By: John Kappos  
John Kappos  
Reg. No. 37,861  
Attorneys for Applicants

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(949) 567-2300 or (213) 489-1600

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